

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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|-----------------------------|---|---------------------|
| ARTHUR CRAIG SCHEID, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | NO. 3:11-0396 |
| |) | Judge Haynes/Bryant |
| DAVIDSON COUNTY, TENNESSEE, |) | Jury Demand |
| |) | |
| Defendant. |) | |

TO: The Honorable William J. Haynes, Jr.

REPORT AND RECOMMENDATION

Defendant Metropolitan Government of Nashville and Davidson County, Tennessee has filed its motion to dismiss for plaintiff's failure to cooperate in discovery, failure to comply with a court order, and failure to prosecute this case (Docket Entry No. 34). As grounds, defendant states that plaintiff has failed to serve responses to written discovery and has failed to comply with the order of this court (Docket Entry No. 29) requiring plaintiff to serve discovery responses no later than March 30, 2012. In addition, defendant states that it served notices to take the discovery deposition of plaintiff Scheid on June 1, 2012, and again on June 11, 2012. These notices were sent by mail to plaintiff's two most recent known addresses. Defendant states that plaintiff Scheid failed to appear for his deposition on either of these two dates. In summary, defendant states that plaintiff has failed to respond to written discovery even when ordered to do so by the Court and has failed to appear for his discovery deposition after being served by mail with deposition notices.

On June 12, 2012, the undersigned Magistrate Judge issued an order (Docket Entry No. 35) requiring plaintiff to show cause on or before Friday, June 29, 2012, why defendant's motion to dismiss should not be granted. This order admonished plaintiff that his failure to respond may cause the undersigned Magistrate Judge to recommend that the complaint be dismissed with prejudice. Despite this order to show cause, plaintiff has failed to file any response either to defendant's motion or to the show cause order.

Based upon the foregoing matters that appear in this record, the undersigned Magistrate Judge finds that defendant's motion to dismiss should be granted based upon plaintiff's failure to cooperate in discovery and his failure to prosecute this case.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that defendant's motion to dismiss (Docket Entry No. 34) be GRANTED and that the complaint be DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to

said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 5th day of July 2012.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge